



Gary Community School Corporation

Doing What is Best for Students - Today - Tomorrow - Everyday

EMERGENCY MANAGER REPORT

DISTRESSED UNIT APPEALS BOARD (DUAB)

June 26, 2020

Prepared by



**Gary
Schools
Recovery, LLC**



Distressed Unit Appeals Board

Emergency Manager Report

Prepared by Gary Schools Recovery, LLC

June 26, 2020

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I.0 EMERGENCY MANAGER UPDATE

ACCOMPLISHMENTS

- ♦ We have successfully receipted in the chrome book carts and set up the asset tags for the new chrome books.
- ♦ We successfully implemented a committee that interviewed and hired a new Athletic Director for the district to grow the athletic opportunities for K-12 students.
- ♦ We completed the Food Service RFP and picked a vendor for the upcoming school year. The recommendation has been submitted to DOE.
- ♦ We are working with our local vendor to install updated, functional cameras at all schools in the district by August.
- ♦ We have actively been working on our enrollment efforts for the Fall. At this time, we have re-enrolled 53% of our students and have an active campaign happening to continue these efforts throughout the summer.
- ♦ Summer school has been implemented for the district with over 1,300 students signing up. Laptops were distributed to all students attending summer school.
- ♦ A virtual graduation ceremony was recorded for the seniors as well as billboards put up within the city, yard signs and a Facebook video.
- ♦ The district collaborated with all of our non-pubs and have submitted our CARES grant application to the DOE.
- ♦ A “re-entry” committee has been formed to discuss options for the Fall as it pertains to students and staff. In addition, I am meeting weekly virtually, with the all of the Region One Superintendents to collaborate on plans and ideas.
- ♦ Weekly communication has continued to go out via the radio show as well as the weekly press release with the Mayor to update the community on school updates.

CURRICULUM REPORT

During the month of May, Gary Community School Corporation has continued to respond to virtually providing education to our students.

- ♦ We provided continuous education through a combination of eLearning platforms. Students use Google classroom, Edmodo, Class Dojo and other platforms to connect with their teachers and continue their education.
- ♦ All parents had access this month to order Summer Bridge books Grades PreK -8 via Amazon if they did not have internet access at home by filling out an order form online or by calling their child's school to place an order. Additionally, packets were available to anyone who still needed them due to no access to internet.
- ♦ Students with special needs have access via virtual platforms where applicable.
- ♦ Summer school was set up this month to begin June 8th. All summer school teachers were trained on Google classroom as not all of these teachers used the platform during the virtual learning sessions.
- ♦ We will offer a session of summer school from June 8 through July 2, 2020 for our 3rd through 8th grade students. Our high school students will have the option of two sessions.
- ♦ STEM Activities have been ordered to supplement the summer school curriculum for our grades 3 through 5.
- ♦ All students participating in summer school will be issued a Dell laptop.
- ♦ Our one-to-one technology campaign has been completed. The federal programs department was able to support the purchase of 5,000 devices for our K-12 students. These devices have internet hotspots in them.
- ♦ A survey of teachers and parents has been created. The data will be used to inform the ways that we provide learning in the coming school year in response to the pandemic.
- ♦ Report cards for the 4th marking period will be distributed (parents can drive up to receive report cards) to families who do not have access to our Student Information system (due to limitations to internet access)
- ♦ Each school in the district had some type of virtual celebration for our students and families following social distancing and in accordance with the city's health department.
- ♦ Virtual graduation has been planned and will be executed this month. The district has partnered with the city to showcase our seniors on one of the city's cable channels and all of the district's social media outlets.

2.0 I065 - SCHOOL IMPROVEMENT FUND PLAN



Gary Community School Corporation
Doing What is Best for Students - Today - Tomorrow - Everyday

SCHOOL IMPROVEMENT FUND PLAN

June 26, 2020

Prepared by



**Gary
Schools
Recovery, LLC**

INTRODUCTION



School Improvement Fund Plan

Prepared by Gary Schools Recovery, LLC

June 26, 2020

INTRODUCTION

Indiana House Enrolled Act 1065 allows the Distressed Unit Appeal Board (DUAB) to suspend certain payments to the Common School Fund for Gary Community School Corporation (GCSC) in order to establish a School Improvement Fund and transfer to the School Improvement Fund an amount equal to the payments that are delayed or suspended. Such a School Improvement Fund may be used only for the following purposes: (1) Repair, renovation, or other improvements to school buildings and property being used for education purposes as of July 1, 2020. (2) Demolition of school buildings or other structures on school property in existence as of July 1, 2020.

All expenditures from a School Improvement Fund must be approved by the DUAB. The opportunity to suspend payments and transfer funds from the Common School Fund into School Improvement Fund begins July 1, 2020 and expires January 1, 2025.

The monthly transfer into the School Improvement Fund would be approximately \$470,000. Over this 54-month timeframe, approximately \$25,380,000 could be deposited into the School Improvement Fund. Money may be expended for the purposes described above as they are received or may grow over time for larger repair and renovation projects as needed.

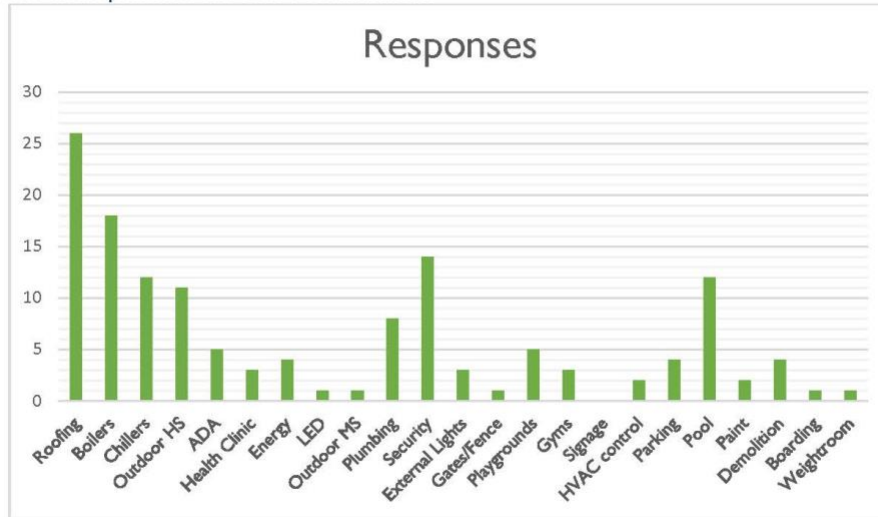
To best understand the goals of all GCSC Stakeholders around uses of the School Improvement Fund, GCSC and MGT staff conducted extensive outreach, asking stakeholders to consider a number of detailed repair and renovation projects. Stakeholders included students, parents, teachers, administrators, Advisory Board members, City leaders, Legislative delegates, Gary pastors, the Urban League, the Chamber of Commerce, the Housing Authority, the Gary Education Foundation, and the Legacy Foundation. An invitation for input through a web and telephone portal was also made available to members of the public.

Outreach to GCSC Stakeholders yielded the responses shown in the graph below, Exhibit I. Responses reflect the top 4 priorities shared by each person who provided input. Not included in the table was a reflection from several Stakeholders to focus efforts with these funds on West Side Leadership Academy (WSLA). The narrative shared a number of times was that WSLA is the flagship building, used for performances and athletics across all grade bands and by the community at large. Also not included in the table was the representation to distribute funds across both structural and beautification improvements. Consistently stakeholders shared a need to serve both existing students and attract new or returning students.

FOUR YEAR PLAN



Exhibit 1: Responses from GCSC Stakeholders



FOUR YEAR PLAN

GCSC has broad facility needs, therefore projects considered are diverse in location, size, and area. Diversification of projects impacts the largest number of students and would have visual impact in a broad range of areas of the community. While this diversification is a leading consideration, this plan also engages the community focus points detailed in the graph above as well as on the concentration of efforts on West Side Leadership Academy.

Major facility systems are important, and failure of those systems poses the highest risk to loss of instruction. Major facility systems will be replaced in phases. This will allow for smaller less expensive projects to be completed at the same time and start a replacement cycle for the future. Facility systems with the highest need are designated in the earliest phases of this plan; lower need projects that do not impact instruction are noted in later phases of the plan.

Aesthetical considerations are important as well. Painting, floors, landscaping, paving, playgrounds, and athletic facilities are important to provide stimulating learning environments in addition to providing an opportunity for student, staff, and community pride. The maintenance and appearance of each building impacts staff and student morale. These aesthetic improvements intend to help with increased enrollment, student and parent satisfaction and academic performance.

Each phase of this plan reflects both the major facility systems as well as security and beautification details that create quality learning environments.

FOUR YEAR PLAN



Phases also consider the deposits made in the Fund over time. Work to be done must reflect what funds are available at that time.

During each phase GCSC will work closely with the Gary Mayor's Office to determine which existing, but unused structures should be demolished.

Projects and phase detail are subject to modification based on cost estimate changes and project completions. GCSC anticipates that each phase will evolve as work is completed. Modified phases will be presented to DUAB and all stakeholders throughout the duration of the Fund.

Several items reviewed and considered by community stakeholders are not included in the phases outlined in this plan. These items received little or no support from stakeholders. However, these may be pursued in the coming years using other funding options as available to GCSC.

Phase 1: Immediate projects (Summer-Fall 2020)

- Single boiler locations identified as critical (Critical being defined as high likelihood of failure resulting in loss of instruction). Bethune Early Childhood Center and Gary Middle School have a single boiler to heat the building. These boilers are approximately 60 years old and have deteriorated such that replacement is necessary.
- Roof replacement identified as critical. West Side is critical. This replacement will occur in stages, with critical areas completed in Phase I, and additional roof areas completed in later phases. For Phase I the identified section is above the small gym, at risk during severe weather.
- Digital access control, rekeying of doors followed by key management program. This line item will use other Federal dollars and work will begin prior to July 1, 2020. As a major school improvement, and one considered by community stakeholders, it is included in this plan.
- Paint- This upgrade will also use other funding opportunities, not the School Improvement Fund. Phase I will focus on WSLA interior (lockers, locker rooms and walls) and GACC interior.
- Accent graphics at WSLA, including rubber mats with school logo at entry points.
- Project signage – sign at each building indicating projects underway and completed. Done in collaboration with Graphic Arts program at Gary Area Career Center.
- Ongoing abatement and demolition of unused property in collaboration with the Gary Mayor's Office.

Phase 2: 2020-21 School Year (Winter-Spring 2021)

- Single chiller locations identified as critical. Bailly MS: chiller and chiller tower. Gary Middle chiller.
- ADA improvements: elevator maintenance all schools, chairlift repair/replace at Beveridge, bathroom entrances and stall widths at GMS, water fountain heights.
- Playground replacement at Beveridge.
- Pavement repair and striping: in house pending hiring.
- Painting part 2: interior spaces in both middle school buildings.
- Athletic updates: WSLA Football field, track, tennis courts, press box, locker rooms and concessions.
- Ongoing abatement and demolition of unused property in collaboration with the Gary Mayor's Office.
- Bathroom extensions to comply with ADA regulations at Gary Middle School.

FOUR YEAR PLAN



Phase 3: Summer 2021 (May – August)

- Boiler replacement phase 2 at GACC and Beveridge.
- Roof repair and replacement phase 2: WSLA, GACC and GMS.
- Pavement repair.
- Painting Phase 3: this phase will focus on the interior of Beveridge, Glen Park and Marquette.
- Playground inspections, repair, and upgrades part 2.
- Athletic updates part 2: WSLA Pool, WSLA gym floor.
- Build or reconfigure security vestibules at the front door such that the door is visible to the main office and requires check in: *West Side, Beveridge, Bethune, Bailly, Gary Middle, Career Center.*
- Ongoing abatement and demolition of unused property in collaboration with the Gary Mayor's Office.

Phase 4: 2021-22 School Year

- Chiller replacement part 2.
- Plumbing upgrade.
- Lighting upgrade.
- Ongoing abatement and demolition of unused property in collaboration with the Gary Mayor's Office.

Phase 5: Summer 2022

- Boiler replacement part 3.
- Roof replacement part 3: Bethune, Beveridge, WSLA, Bailly.
- Pavement repair.
- Athletic updates part 3.
- Painting phase 4: interior Williams, Bethune and McCullough.
- Playground inspections, repair, and upgrades part 3.
- Outdoor lighting upgrade.
- Ongoing abatement and demolition of unused property in collaboration with the Gary Mayor's Office.

Phase 6: 2022-23 School Year

- Ongoing abatement and demolition of unused property in collaboration with the Gary Mayor's Office.
- Add and repair fencing and gates at all buildings.

Phase 7: Summer 2023

- Roof completion: complete all roofing projects at WLSA (as needed Bailly, GACC, Beveridge and Bethune).
- Ongoing abatement and demolition of unused property in collaboration with the Gary Mayor's Office.

PROGRESS MONITORING



Phase 8: Final Projects

- Plumbing upgrades.
- Roof at Buildings and Grounds.
- Ongoing abatement and demolition of unused property in collaboration with the Gary Mayor's Office.

PROGRESS MONITORING

The chart below represents progress demonstration that will inform all stakeholders on the GCSC website through regular updates and the website of progress toward completion of each project. A monthly Control Budget will also be available at public meetings.

PROJECT	Estimated Cost	Progress toward Completion (sample)
Phase I: Summer - Fall 2020		
GMS Boiler	200,000	0%
Bethune Boiler	200,000	0%
West Side Roof, Part I of 4	2,125,000	0%
Accent graphics	7,000	10%
Paint, Part I: Interior GACC, interior WSLA	(30,000)	10%
Camera and video upgrades	(121,030)	10%
Digital Access Control	(78,250)	10%
External Signage of Progress	0	10%
<i>Phase I Estimated Total</i>	<i>2,532,000</i>	
Phase 2: 2020-21 School Year (Winter – Spring)		
Bailly chiller and chiller tower	650,000	0%

PROGRESS MONITORING



Gary Middle chiller	150,000	0%
Elevator and chairlift repair	25,000	0%
Playground replacement Beveridge	70,000	0%
Paint, Part 2: interior middle schools	(30,000)	0%
Pavement repair I	50,000	0%
Tennis Courts at WS	100,000	0%
Press Box, Locker Rooms, Concessions	200,000	0%
Ongoing Abatement and Demolition allocation	1,000,000	0%
ADA Bathroom extensions, GMS	75,000	0%
<i>Phase 2 Estimated Total</i>	<i>2,320,000</i>	
Phase 3: Summer 2021		
Boiler repair/replacement, GACC, Beveridge	400,000	0%
West Side Roof, Part 2	2,125,000	0%
GACC Roof	335,000	0%
Gary Middle roof	40,000	0%
Pavement repair part 2	50,000	0%
West Side gym floor	57,000	0%
West Side Pool	400,000	0%
Add security vestibules	500,000	0%
Playground upgrades Glen Park, Williams, Bethune, McCullough	280,000	0%

PROGRESS MONITORING



Ongoing abatement and demolition allocation	500,000	0%
<i>Phase 3 Estimated Total</i>	<i>4,687,000</i>	
Phase 4: 2021-22 School Year		
Chiller replacement Part 2	Cost included in phase 2	0%
Plumbing upgrades	2,000,000	0%
Internal Lighting upgrade	250,000	0%
Ongoing Abatement and Demolition allocation	500,000	0%
<i>Phase 4 Estimated Total</i>	<i>2,750,000</i>	
Phase 5: Summer 2022		
West Side Roof, Part 3	2,125,000	0%
Roof replacement, part 3: Bethune, Beveridge, Bailly, GACC	4,139,000	0%
Pavement repair Part 2	75,000	0%
Athletic field updates – middle schools	200,000	0%
Painting Part 3	(30,000)	0%
Playground inspections and repair	10,000	0%
Outdoor lighting upgrade	110,000	0%
Ongoing abatement and demolition allocation	500,000	0%
<i>Phase 5 Estimated Total</i>	<i>7,159,000</i>	
Phase 6: 2022-23 School Year		
Ongoing Abatement and Demolition allocation	500,000	0%

COMMUNICATION AND OUTREACH



Gates and Fencing	20,000	0%
<i>Phase 6 Estimated Total</i>	<i>520,000</i>	
Phase 7: Summer 2023		
West Side Roof part 4	2,125,000	0%
Ongoing abatement and demolition allocation	500,000	0%
<i>Phase 7 Estimated Total</i>	<i>2,625,000</i>	
Phase 8: Final Projects		
Plumbing upgrades	2,000,000	0%
Buildings and Grounds Roof	1,100,000	0%
Ongoing abatement and demolition allocation	500,000	0%
<i>Phase 8 Estimated Total</i>	<i>3,600,000</i>	

Projects with parenthetical costs are not included in the Phase total. These costs will be funded through other district resources, not the School Improvement Fund.

COMMUNICATION AND OUTREACH

Progress toward all projects will be communicated to all community stakeholders using the following methodologies:

1. Signs will be placed in the front of each building that will reflect the work in progress and completed in that building. These signs will be updated regularly. Signs will be developed with the assistance of the Construction Trades and the Graphic Imaging programs at Gary Area Career Center.
2. The GCSC website will display regular updates on each project, with an indication of progress toward completion and total expenditure for each project.
3. Regular meetings of the Emergency Manager, the Advisory Board and the Fiscal Advisory Board will include a status report on projects and expenditures.
4. GCSC will develop School Improvement Fund cadre of advisors, led by the Emergency Manager or designee. These advisors will be asked to provide insights on community viewpoints around the work supported by the Fund.



5. The Emergency Management team will meet with the Mayor of Gary on a regular basis to share progress on each project.
6. The Communications team will share periodic updates on all GCSC social media channels, newsletters, website and via media interviews.

3.0 FOOD AND NUTRITION SERVICES CONTRACT

SUMMARY

The five-year contract between GCSC and Sodexo Magic for food and nutrition services ends June 30, 2020.

RFP ISSUED AND TIMELINE AND RESPONSE

MGT and GCSC personnel with the close assistance of IDOE personnel prepared an RFP for food and nutrition services. The RFP was released on April 7, 2020. The RFP closed on May 12, 2020.

Sodexo Magic was the only company to submit a proposal in response to the RFP.

PROPOSED CONTRACT LANGUAGE AND TERMS

Sodexo has proposed a five-year agreement. The contract is for one year with four additional one-year renewals. The proposed contract language and terms are very similar to the expiring contract.

COST COMPARISON TO PRIOR CONTRACT

Sodexo has proposed a budgeted total five-year cost that is less than the expiring budgeted contract five-year cost.

Sodexo stated the decrease in cost is directly correlated to the number of students and schools served currently compared to the number of students and schools served five years ago.

GCSC's fiscal status compared to five years ago and an open bid process may have contributed to the lower overall costs as well.

Expiring Contract	Net Cost	Proposed Contract	Net Cost	Variance
		FSMC	\$ 3,420,530	
		SFSP	\$ 140,947	
		CACFP	\$ 136,873	
Total Net Costs	\$ 4,310,539		\$ 3,698,350	\$ (612,189)
Guaranteed Return	\$ 2,615,285		\$ 2,561,250	\$ (54,035)

The actual costs will be based on the unit cost times the number of units. A unit is one meal. The proposed unit cost in the contract is \$3.64. This per unit cost was established in the RFP.

Additionally, Sodexo has committed to a minimum of \$512,250 per year for guaranteed return for a five-year total of \$2,562,500. A guaranteed return is funds applied to upgrades, enhancements and capital needs related to food and nutrition services.

Additionally, Sodexo has proposed decreasing the administrative fee by 21% from \$.336 to \$.265. This decrease creates a savings to GCSC of approximately \$40,000 annually for a five-year total of approximately \$200,000.

APPROVALS FROM IDOE

IDOE personnel have reviewed and approved the selection of Sodexo Magic.

FOOD SERVICE AGREEMENT

Food Service Agreement

Gary Community School Corporation

And

SodexoMAGIC, LLC



June 1, 2020

FOOD SERVICE AGREEMENT

THIS FOOD SERVICE AGREEMENT ("Agreement") is made as of July 1, 2020 by SodexoMAGIC, LLC (herein referred to as SodexoMAGIC OR Food Service Management Company (FSMC), and the Gary Community School Corporation (the "District or School Food Authority (SFA)") (individually "Party" and collectively, the "Parties"). This food service Agreement incorporates The Request for Proposal (RFP) of the Gary Community School Corporation for a Food Service Management Company and the response to the RFP submitted by SodexoMAGIC, LLC ("Proposal"). In the event that contradictory statements are contained in the RFP, the Proposal, and this Agreement, the following order of precedence shall apply: Agreement, FSMC's Proposal, and the RFP.

WITNESSETH

WHEREAS, the DISTRICT wishes to retain SodexoMAGIC to provide certain food and food-related services at all of the campuses within the jurisdiction of the DISTRICT (the "Premises").

NOW THEREFORE, in consideration of the mutual agreements set forth below and other good and valuable consideration, acknowledged by each of the Parties to be satisfactory and adequate, SodexoMAGIC and the DISTRICT agree as follows.

SECTION 1 DEFINITIONS

- 1.1 **Accounting Period.** A calendar month, twelve (12) of which constitute an accounting year.
- 1.2 **Allowable Direct Costs** (also referred to as Operating Expenses). As defined in Section 11.2
- 1.3 **Deficit.** The excess of the total of Allowable Direct Costs, Administrative Fee and Management Fee over Gross Sales, less applicable taxes.
- 1.4 **Gross Sales.** All sales of food, beverages, goods, merchandise and services in the Food Service operation, including sales taxes.
- 1.5 **Surplus.** The excess of the total of Allowable Direct Costs, Administrative Fee and Management Fee over Gross Sales, less applicable taxes.

SECTION 2 PURPOSE OF THE AGREEMENT

- 2.1. **Meal Programs.** SodexoMAGIC, shall provide nutritional universal breakfasts, lunches, milk service, after school meals, and a la carte items on a daily basis in accordance with the following terms and conditions contained in this Agreement.

2.2. Appointment of SodexoMAGIC. The DISTRICT hereby retains SodexoMAGIC and grants to SodexoMAGIC the exclusive right to provide and manage the DISTRICT'S food service program ("Service," "Services," "Food Service" or "Food Service Program") at the DISTRICT's Premises to all of the students of the DISTRICT including but not limited to Pre-Kindergarten, Kindergarten, Elementary, Middle and High School Students. SodexoMAGIC shall render the Food Services within the facilities of the Premises, including but not limited to, the food preparation, serving, dining and storage areas ("Facilities" designated for the Food Service Program). SodexoMAGIC shall also operate the summer food program for the 2020 summer and 2021 summer. SodexoMAGIC shall be entitled to payment for the operation of the summer food program. With respect to the 2020 summer food service, the parties agree that Sodexo shall provide summer food service beginning July 1, 2020.

2.3. General Purpose. SodexoMAGIC shall be responsible for the DISTRICT'S Food Service Program and shall prepare and serve wholesome, nutritious and appetizing meals to the reasonable satisfaction of the DISTRICT. SodexoMAGIC shall comply with the applicable provisions of the National School Lunch Program ("NSLP") School Breakfast Program ("SSP"), the Special Milk Program ("SMP") and the U.S. Department of Agriculture ("USDA") Regulations set forth in 7 CFR Parts 210, 215, 220, 245, 250 and FNS instructions and policies, as applicable, including applicable portions of the State's agreement under the program per 7 CFR Part 210.16(a)(2).

2.4 Independent Contractor. SodexoMAGIC shall be an independent contractor and shall retain control over its employees and agents, SodexoMAGIC shall be free to perform Services for any other DISTRICT, company or organization during the term of this Agreement.

SECTION 3. COMMENCEMENT AND TERMINATION

3.1 Commencement and Term.

Section 3.1.1 Terms of Agreement. The term of the Agreement shall be for one year beginning July 1, 2020 and continuing until June 30, 2021 ("Term") unless terminated by either Party as hereinafter provided. The Parties may, by mutual agreement, renew this Agreement for up to four (4) successive one (1) year renewal periods." 7 CFR 210.16

3.1.2 District and SodexoMAGIC agree to participate in a Common Goals Session within ninety (90) days from the commencement of Services in accordance with Exhibit B. During the second half of each school year, District and SodexoMAGIC agree to participate in an Annual Expectations Meeting throughout the term of this Agreement in accordance with Exhibit C. SodexoMAGIC shall present no less than semi-annually a verbal and written program update to the School Board.

3.2 Termination. Either Party may terminate this Agreement without cause by giving

sixty (60) days' notice in writing to the other Party of its intention to do so. 7 CFR 210.16(d).

3.3. Breach. If either Party breaches a material provision hereof, including failure to make payment when due, whether by District or IDOE ("Cause"), the non-breaching Party shall give the other written notice of such Cause. If the Cause is remedied within ten (10) days in the case of failure to make payment when due (whether by District or IDOE), or thirty (30) days in the case of any other Cause, the notice shall be null and void. If such Cause is not remedied within the specified period, the Party giving notice shall have the right to terminate the Agreement upon expiration of such remedy period. However, neither party shall be responsible to the other for any losses or failure to perform its respective obligations under the Agreement when such failure is caused by conditions beyond the Party's control such as fire, explosion, water, Acts of God, civil disorder or disturbances, labor disputes, vandalism, war, riot, sabotage, weather and energy-related closings, pandemic, epidemic, governmental rules and regulations or like causes beyond the reasonable control of such Party or the damage or destruction of real or personal property of such causes. In addition, the Parties agree that nothing in this paragraph modifies the Parties' right to terminate this Agreement by giving sixty-(60) days' notice in accordance with Section 3.2 above. 7 CFR Part 3016

Section 4. EMPLOYEES

4.1 Personnel Obligations. SodexoMAGIC shall be responsible for hiring all Food Service Employees and management on its payroll including, but not limited to, responsibility for recruitment, employment, promotion, payment of wages, pension benefits, layoffs and termination. SodexoMAGIC shall comply with all applicable laws and regulations related thereto. SodexoMAGIC shall prepare and process the payroll for its employees and shall withhold and pay all applicable federal and state employment taxes and payroll insurance relating to its employees including, but not limited to, income, social security and unemployment taxes and worker's compensation costs and charges.

4.2. Equal Opportunity Employer. The DISTRICT and SodexoMAGIC shall comply with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in U.S. Department of Labor Regulations. *CFR Part 3016*

4.3. Work Hours. SodexoMAGIC and the DISTRICT shall comply with Section 103 and 107 of the Contract Work hours and Safety- Standards Act as set forth in 40 USC 327-330 and supplemented by U.S. Department of Labor Regulations as set forth in 29 CFR Part 5. *7 CFR Part 301*

4.4 **Union.** In the event of an increase in wages or benefits payable as a result of unionization, or as a result of the renegotiation and ratification of an existing collective bargaining agreement, the **Financial Guarantee** shall, from the date of increase in wages or benefits, be decreased by the percentage increase in wage rates and/or benefits.

4.5. **Hours.** SodexoMAGIC shall recommend to the DISTRICT the number of work hours and the number of positions required at the Premises with each annual budget. This annual budget will be approved by the Schools Administration

4.6. **Background Checks.** SodexoMAGIC shall adhere to applicable state and federal regulations in screening prospective employees. SodexoMAGIC shall comply with criminal background checks and fingerprint regulations required by law for all new hires.

4.7. **Regulations.** SodexoMAGIC shall instruct its employees to abide by the policies, rules and regulations with respect to its use of DISTRICT Premises as established by the DISTRICT from time to time and which are furnished in writing to SodexoMAGIC.

4.8. **Removal of Employee.** The DISTRICT may provide SodexoMAGIC with written notice that it requires the removal of an employee of SodexoMAGIC if such employee violates health requirements or conducts himself/herself in a manner which is detrimental to the physical, mental or moral well-being of students, staff or faculty. In the event of the removal of any such employee, SodexoMAGIC shall immediately restructure its staff without disruption in Service.

4.9. **Emergency Devices.** All Food Service personnel assigned to the DISTRICT shall be instructed on the use of all emergency switches and fire and safety devices in the facility.

4.10. **Student Workers.** The use of student workers or students enrolled in the DISTRICT is prohibited without prior DISTRICT approval.

4.11. **Senior Management.** SodexoMAGIC shall inform the DISTRICT prior to hiring Senior Management positions for the DISTRICT's Food Service Program. All persons to be hired as Food Service Directors, Assistant Directors and Supervisors must be presented for the DISTRICT's evaluation and approval. Noncompliance will be considered a breach of this Agreement.

4.12. **Non-solicitation.** SodexoMAGIC employees performing Services or administrative work at the Premises shall be subject to the rules and regulations established by the DISTRICT as reasonable and necessary for its operation. District shall not, during the Term of this Agreement, solicit to hire any SodexoMAGIC salaried employees.

Section 5. MANAGEMENT SERVICES & SPECIAL FUNCTIONS

5.1. Management Services. SodexoMAGIC shall provide all management, administrative and dietetic services required for the efficient supervision all operation of DISTRICT's Food Service Program.

5.2 Various Programs. SodexoMAGIC will work with the District and Superintendent to bring programs and contributions to that are identified in SodexoMAGIC's Proposal in response to RFP.

5.3 Special Diets. SodexoMAGIC shall supply any special diets for students required for medical reasons when prescribed and approved in writing by a medical doctor or by a note from the parent. SodexoMAGIC shall provide training to all food service workers regarding special diets and food allergies. SodexoMAGIC shall make sure that students who have allergies or special diet needs will be addressed. SodexoMAGIC agrees to hold harmless and indemnify the District relative to SodexoMAGIC'S actions concerning special diets and food allergies.

5.4 Special Functions. The DISTRICT shall have the option to utilize SodexoMAGIC Food Service for administration and student-related functions as reasonably requested by the DISTRICT. Such requests must be received at least twenty-four hours prior to the date of the function if less than fifteen (15) people are in attendance and seventy-two hours prior to the date of the function if more than fifteen (15) people are in attendance. All food and labor costs for these functions will be billed directly to the school organization involved, unless otherwise specified by the DISTRICT. Any special arrangements regarding other costs which might be incurred at these functions may be negotiated between SodexoMAGIC and the organization requesting Services. Such services shall be provided based on the times and prices mutually agreed upon.

Section 6. EQUIPMENT, FACILITIES & UTILITIES

6.1. Facilities and Equipment. The DISTRICT shall make available without any cost or charge to SodexoMAGIC, the Facilities and equipment including, but not limited to, kitchen equipment, small wares, suitably furnished office space, facilities for the safe keeping of funds and those areas of the premises in which SodexoMAGIC shall provide its Services.

6.2. Condition of Facilities and Equipment. The Facilities and equipment provided by each Party for use in the Food Service Program shall be in good condition and maintained to ensure compliance with applicable laws concerning building conditions, sanitation, safety and health. SodexoMAGIC shall take proper care of all furniture and fixtures and equipment provided by the DISTRICT and shall timely notify the DISTRICT of any known deficiencies. SodexoMAGIC shall not be held accountable for pre-existing conditions. At the expiration of this Agreement, SodexoMAGIC shall return to the DISTRICT the Facilities and all furniture, fixtures and equipment furnished by the DISTRICT in the condition in which received, except for ordinary wear and tear and damage by the elements, and except to the extent that such Facilities or equipment may have been lost or damaged by vandalism, fire, flood, other Acts of God or theft by persons other than employees of SodexoMAGIC, unless such damage has been caused through the negligence of SodexoMAGIC or its employees.

6.3. **Utilities.** The DISTRICT shall furnish at its expense, space, light, power, hot and cold water, telephone service, high-speed internet service and other utilities as are necessary for the operation of the Services to be furnished hereunder.

6.4. **School's Use of the Facilities.** The DISTRICT is encouraged to utilize SodexoMAGIC for catering and other Food Service: needs in addition to the School Lunch, Breakfast and/or Special Milk Programs. However, the DISTRICT reserves the right in its sole discretion, to sell or dispense any food or beverage before or after the DISTRICT's regularly scheduled lunch or breakfast periods, provided such use does not interfere with the operation of the School Lunch, Breakfast and/or Special Milk Programs.

6.5. **Extracurricular Activities.** If the DISTRICT utilizes the Facilities for extracurricular activities before or after the DISTRICT's regularly scheduled Food Service periods, the DISTRICT shall return the Facilities and equipment to SodexoMAGIC in the same condition as received, normal wear and tear excepted.

6.6. **Rental Facilities for Community Use.** The DISTRICT retains the right to rent or donate the Facilities during non-school hours or weekends, provided that such activity does not interfere with the normal Food Service Program. When such functions take place, the DISTRICT may require that a member of the Food Service staff be on duty to maintain the safe use of equipment and/or to provide access to the Facilities. The DISTRICT will indemnify SodexoMAGIC for any loss or damages arising out of a third party's use of the Food Service equipment or Facilities. All Facilities and equipment used by a third party shall be returned to SodexoMAGIC in the original condition in which it was found, reasonable wear and tear excepted, so as not to unreasonably interfere with SodexoMAGIC's performance under this Agreement.

Section 7. MAINTENANCE, REPAIRS & SANITATION

7.1. **Maintenance.** The DISTRICT shall furnish all building maintenance and all repairs to the Food Service areas without cost to SodexoMAGIC and shall replace, repair and maintain its equipment, except when damage results from the negligence of SodexoMAGIC or its employees. The DISTRICT shall keep such equipment and Facilities maintained in a safe operating condition such that no SodexoMAGIC employee is exposed to or subjected to any unsafe situation which would violate the Occupational Safety and Health Act including, but not limited to, the general duty and the specific duty clauses thereof or any other similar federal, state or local law or regulation. However, if equipment provided by the DISTRICT becomes inoperative, hazardous or inefficient to operate, SodexoMAGIC shall have the right to undertake repairs or replacements at the expense of the DISTRICT following the procedures as outlined by the DISTRICT, if the DISTRICT fails to do so. SodexoMAGIC must get the approval of the DISTRICT prior to undertaking such repairs or replacements. The DISTRICT shall at its expense, provide maintenance personnel and outside maintenance services, parts and supplies for properly maintaining the Facilities and its equipment.

7.2 **Cleaning.** The DISTRICT shall be responsible for the cleaning and maintenance of floors, windows, walls, light fixtures, ceilings, hoods, ducts, grease traps and the general care of the Facility. SodexoMAGIC shall be responsible for the routine cleaning of the food preparation areas, serving areas, dining areas, dish rooms and storerooms, including the ordinary and routine cleaning of counters and operating equipment used in connection with the Food Service Program.

7.3 **Sanitation.** The DISTRICT shall provide for the daily removal of waste and garbage and regular extermination services at its expense.

SECTION 8. INVENTORY

8.1. **Inventory.** SodexoMAGIC shall purchase all food and other supplies required under this Agreement on the DISTRICTS behalf. Title thereto shall remain with the DISTRICT at all times. Such food and supplies shall be kept separate and apart from all other DISTRICT property. SodexoMAGIC and DISTRICT shall jointly take inventory of all purchased food and supplies at both the beginning and the end of this Agreement. The DISTRICT shall have access to the records of the food purchased in order to review and audit as deemed necessary in the judgment of the DISTRICT.

8.1.1 **Equipment and Commodity Inventories.** SodexoMAGIC and the DISTRICT shall inventory the equipment and commodities owned by the DISTRICT at the beginning of the Agreement year including but not limited to, small wares trays, kitchen utensils and food (both purchased and government-donated commodities). SodexoMAGIC shall be responsible for reimbursing the DISTRICT for all shortages noted at the year-end inventory of the equipment and commodities and will provide updates of equipment and commodities with its monthly records.

8.2. **Purchasing.** SodexoMAGIC, with oversight of the District shall purchase all food, nonfood commodities and milk/beverages for the DISTRICT at the lowest price possible consistent with maintaining the quality standards prescribed by the DISTRICT, including taking advantage of all local trade discounts. All such transactions must meet procurement standards set by the USDA. Transactions shall be conducted as provided by law and in a manner to provide maximum open and free competition.

8.2.1 District acknowledges that SodexoMAGIC shall utilize its own supplier network for the provision of food, beverages, supplies and services in the performance of its obligations hereunder. District understands that Sodexo has entered into agreements with many vendors and suppliers of products and services which (i) give SodexoMAGIC the right to inspect such vendors' and suppliers' plants and/or storage facilities and (ii) require such vendors and suppliers to adhere to standards to ensure the quality of the products and/or services purchased by SodexoMAGIC for or on behalf of District. District shall not require Sodexo to use products and/or services from non-SodexoMAGIC approved vendors.

8.2.2 SodexoMAGIC shall request, receive and inspect food delivered by vendors and shall make available a list of the vendor invoices for audit and review purposes.

8.2.3 SodexoMAGIC shall maintain adequate storage practices, inventory and control of government-donated foods in conformance with the DISTRICT's agreement with any applicable state agency.

8.2.4 In accordance with the BUY American Provisions of 7 CFR part 250, SodexoMAGIC shall purchase, to the maximum extent practicable, domestic commodities that are produced and processed in the United States and will substantially use agricultural commodities that are produced in the United States. "Substantially" means that over fifty- one percent (51%) of the final processed products consist of

agricultural commodities that were grown domestically.

8.2.5 SodexoMAGIC shall be responsible for the purchase of milk and beverages and shall be responsible for all costs, whether an increase or decrease, in the price of milk occurs.

8.3. **Processing Contracts.** All goods, services or moneys received as the result of a rebate under a processing contract must be utilized in the DISTRICT's nonprofit Food Service Program.

Section 9. FOOD SERVICE

9.1. **Menus.** SodexoMAGIC shall consult with an advisory board, comprised of such members as the DISTRICT shall designate, regarding the overall operation of the DISTRICT's Food Service Program, including menus. SodexoMAGIC shall submit menus to the DISTRICT for each school for approval. Any menu changes may only be made with the approval of the DISTRICT. Seasonal changes, special school programs or shifts in student preferences shall be taken into consideration in menu preparation. All menus will be nutritionally acceptable to the DISTRICT in accordance with applicable regulations. SodexoMAGIC shall work diligently with the District and advisory board to make sure that the menus are appealing and supported by the individual schools.

9.2. **Control of Food Service.** The DISTRICT shall retain control of the quality, extent and nature of its Food Service. *7CFR210.16(a)(4)*

9.3. **Food Specifications.** The DISTRICT must provide detailed specifications including, but not limited to, grade and weight for each food component or menu item as specified in 7 CFR 210 and include these specifications in all Invitations For Bid ("IFBs") or Requests for Proposal ("RFPs"). Specifications may also cover other items such as purchase units, style, condition, ingredients, formulations and delivery time. *7 CFR 210.16(c)(3)*

9.4. **Noncompliant Foods.** No payment shall be made by the DISTRICT for meals that are spoiled or unwholesome at the time of delivery, do not meet detailed specifications as developed by the DISTRICT for each food component specified in the NSLP or do not otherwise meet the requirements of this Agreement. *7 CF 210.16c(3)*

9.5. **Nutrition Education.** SodexoMAGIC shall promote the nutritional education aspects of the DISTRICT's Food Service Program and cooperate in the efforts of the DISTRICT to coordinate these aspects with classroom instruction.

Section 10. ACCOUNTING, RECORDS & ADULTS

10.1. **Records.** SodexoMAGIC shall maintain such records as the DISTRICT will need to support its reimbursement claims and shall provide such records promptly to

the DISTRICT at the end of each calendar month, at a minimum. Such records shall be available for a period of three (3) years from the date of final payment under the Agreement for inspection and audit by representatives of the applicable state's education and agriculture regulatory agencies the USDA and the U.S. General Accounting Office at any reasonable time and place; except that, if audit findings have not been resolved, the records shall be retained beyond the three (3) year period for as long as required for the resolution of the issues raised by the audit. Such records include but are not limited to, Daily Cash Reports, Edit Check Worksheets, Milk Rosters and Summary of Meal/Milk counts. In accordance with regulations, a DISTRICT official will review records maintained by SodexoMAGIC for the purpose of preparing monthly reimbursement vouchers. 7 CFR210.16(c)(1) and 7CFR210.23c

10.2. Availability of Records. The DISTRICT, the applicable state's education and agriculture regulatory agencies, the USDA, Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers and records of SodexoMAGIC which are solely and directly pertinent to this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions. 7 CFR Part 3016

10.3. Reimbursement Records. SodexoMAGIC shall retain records to support the DISTRICT's reimbursement claim of the daily number of meals served, by type. These meal counts must be reported daily. 7 CFR 210.16(c)(1)

10.4. Revenue Records. SodexoMAGIC shall retain revenue records broken down by source, type and category of meal or Food Service (e.g., a la carte sales, reduced-price and full-price lunch meals, breakfast meals, vending machine sales, etc.).

10.5. Invoices.

10.5.1 SodexoMAGIC will bill Gary Community School Corporation at the end of each month for: (a) management fee; (b) administrative fee; and (c) Operating Expenses. Payment shall be due within forty-five (45) days of receipt of the monthly invoice. G C S C shall pay interest on amounts not paid when due at one percent (1%) per month. Failure to make payment when due shall be deemed a material breach of the Agreement.

10.6. Invoice Statement. All invoices submitted by SodexoMAGIC must represent that articles have been furnished or Services rendered before payment can be made to SodexoMAGIC from the DISTRICT's Food Service account. SodexoMAGIC agrees to utilize the forms provided by the District for seeking payment.

10.7. Detailed Description. All invoices submitted by SodexoMAGIC must include a detailed description of the goods, supplies, services or other items being submitted for reimbursement.

10.8. Taxes and Assessments. SodexoMAGIC shall pay when due all federal, state,

local, sales and other governmental taxes or assessments in connection with the Services.

Section II. FINANCIAL, PURCHASING & MEAL PAYMENT

11.1 General Provisions. All management/administrative fees shall be expressly stated in this Agreement. SodexoMAGIC shall operate, administer and manage the Food Service Program for the DISTRICT in accordance with the financial arrangements as set forth in this Section. This Agreement does not contain a "cost-plus-a-percentage-of-cost" or a "cost-plus-a-percentage-of-income" provision. *7 CFR 210.16(c)*

11.2 Operating Expenses/Management Fees/Administrative Fee. SodexoMAGIC shall charge the DISTRICT for SodexoMAGIC's Operating Expenses of operating the Food Service Program as allowed by law. Operating Expenses shall be defined as all costs, expenses, and Charges related to the Food Service operation including, but not limited to, the following:

11.2.1 The invoiced amounts to FSMC of goods and services, including food, beverages, merchandise, and supplies. Allowable Direct Costs shall be net of any discounts, rebates and other credits obtained from local vendors, suppliers, or distributors for goods procured solely for District's account. All discounts, rebates and other applicable credits accruing to or received by SodexoMAGIC under this Agreement, to the extent those credits are allocable to the allowable portion of the amounts billed to District, including those obtained from vendors, suppliers, manufacturers or distribution companies, and SodexoMAGIC's regional or national purchasing or distribution arrangements, shall be credited to the District;

11.2.2 Labor, including salaries (including bonuses, if any), wages, taxes, benefits, payroll processing, retirement plans and the cost of administering such plans and services;

11.2.3 Other costs, expenses, and Charges including, but not limited to, amortization or depreciation of equipment, any Investment (as further defined) made pursuant to the terms of this Agreement, decor, signage, and other items purchased on behalf of the Food Service, Charges for workers' compensation and general liability insurance based on the average manual rates for such insurance in the geographic area of the Premises and other insurance maintained pursuant to the Agreement, out-of-pocket travel and related expenses for training of employees assigned to the Food Service operation, including the costs of an on-site trainer temporarily assigned to the Premises, sales, use, and other taxes related to the purchases made for Food Service (other than taxes collected and remitted by SodexoMAGIC to a taxing authority); costs of licenses, permits, information systems, software and software maintenance, armored car services, fees charged to SodexoMAGIC for credit or debit card sales, marketing

and promotional or proprietary materials, including CrossRoads Cuisines® signage and related materials, all costs, third party recruitment and placement fees, the cost of any required or necessary background checks, uniforms and linen, flowers, decorations, overnight delivery, if necessary, small wares, minor equipment, repair and maintenance of SodexoMAGIC-supplied equipment, incidental daily register shortages not to exceed Three Dollars (\$3.00) per day (excluding theft), and other services related to the Food Service operation. As used herein, Charge shall mean fees established by Sodexo for goods or services provided by SodexoMAGIC that are not included in the Administrative Fee or Management Fee.

Computing Meals. Derived from all other revenue excluding federal/state reimbursements, student snack/breakfast/lunch reimbursable sales and childcare program meals. The meal equivalency rate shall be equal to \$3.32, as stated in the **RFP**.

Total meals are to be calculated pursuant to state and federal law. District must approve the fee charged for meals in the National School Lunch Program and School Breakfast Program. Meals served to children shall be divided by \$3.32 to arrive at an equivalent meal count. The per-meal Management Fee will be multiplied by total meals. SodexoMAGIC to receive \$0.25 per meal for general and administrative fee and \$0.06 per meal for management fee.

Meal Definition-Meals shall be defined as follows: 1 Lunch= 1 Meal; 1 Breakfasts= 1 Meal; 3 Snacks= 1 Meal; 1 Dinner= 1 Meal

11.4 Surplus Revenues. Any Surplus existing after deducting the approved Operating Expenses, Administrative Fee and Management Fee from verified Food Service receipts and all federal and state reimbursements shall remain with the DISTRICT.

11.5 Financial Reconciliation. Gross Sales shall be remitted to DISTRICT or deposited in DISTRICTS account on a daily basis. DISTRICT shall provide bank reconciliation and meal count reconciliation within sixty (60) days of the close of each Accounting Period. Within ninety (90) days of the end of the school year, the parties shall complete a reconciliation of the annual operational financial report, which report shall be signed by the parties at the bottom as being true and correct.

11.7 Financial Guarantee – If, at the conclusion of the 2020-2021 school year, Gary Community School Corporation foodservice program does not meet or exceed the agreed upon financial minimum, SodexoMAGIC will pay the difference up to 100% of the management fee. A detail budget with assumptions is included in Exhibit A of this Agreement.

11.9 Annual Price Adjustment-SodexoMAGIC's administrative fee and management fee may be increased on an annual basis by the yearly percentage change in the Consumer Price Index for all urban customers, as published by the United States Department of Labor, Bureau of Labor Statistics, Food Eaten Away from Home, South-Size Class B/C or by 2.5%, whichever is the lowest.

Section 12. COMMODITIES

12.1 Benefit of DISTRICT Only. SodexoMAGIC agrees that any government donated commodities received by the DISTRICT and made available to SodexoMAGIC shall accrue only to the benefit of and shall be used only in the DISTRICT's nonprofit school Food Service. *7 CFR 210.16(a)(6)*

12.2. Proper Use and Handling. The liability for the proper use of these commodities will be the responsibility of SodexoMAGIC. SodexoMAGIC shall maintain accurate and complete records with respect to the receipt, use/disposition, storage and inventory of donated food. Failure by SodexoMAGIC to maintain records required under the Agreement shall be considered factual evidence of improper distribution or loss of donated foods. The DISTRICT is responsible for obtaining restitution from SodexoMAGIC in connection with any claim for improper distribution or use, loss of or damage to donated foods. *7CFR 250.12(b)(4)*

12.3. Title to Donated Food. Title to government-donated food shall remain in the DISTRICT.

Section 13. INSURANCE & INDEMNITY

13.1 To the extent permitted by state law, each Party shall indemnify, defend and hold the other harmless from any and all losses, damages or expenses, including reasonable attorneys' fees, arising out of or resulting from claims or actions for bodily injury, death, sickness, property damage or other injury or damage caused by the negligent act or omission of such Party.

13.2 Notification of an event giving rise to an indemnification claim ("Notice") must be received by the indemnifying Party within thirty (30) days following receipt of such claim and shall include a brief factual summary of the damage and cause thereof. An indemnification claim is expressly subject to and conditioned upon compliance with the Notice provisions hereunder.

13.3 SodexoMAGIC shall obtain and maintain insurance for the following risks in such amounts under such policies as appropriate: general liability (including contract, products-completed, operations and business automobile coverage) and worker's compensation (including employer's liability coverage).

13.4 Certificates of insurance for such coverage shall be furnished upon thirty (30) days notice. The DISTRICT shall be named as an additional insured.

Section 14. DISTRICT RESPONSIBILITIES

14.1 Food Service Conformity. The DISTRICT shall remain responsible for ensuring that the Food Service Program is in conformance with its agreement under the NSLP and shall monitor the Food Service Program through periodic on-site visitations. *7 CFR 210.16(a)(2)(3)*

14.2 Advisory Board. The DISTRICT shall establish an advisory board comprised of parents, teachers and students to assist in menu planning. The menu will be planned on a 4-week menu cycle. *7 CFR 210.16(a)(8)*

14.3 Health Certification. The DISTRICT shall maintain applicable Health Certification and ensure that all state and local regulations are being met by SodexoMAGIC's employees preparing and/or serving meals at the DISTRICT's Premises. *7 CFR 210.16(a)(7)*

14.4 Pricing. The DISTRICT shall establish all program and non-program meal and ala carte prices. The DISTRICT shall establish all prices, including price adjustments for food items served under the nonprofit DISTRICT Food Service account (e.g., reimbursable meals, ala carte service, and adult meals).

14.5 Signature Authority. The DISTRICT shall retain signature authority on the application/agreement to participate in the NSLP, SBP and the SMP, including the DISTRICT's free and reduced-price policy statement. *7 CFR 210.16(a)(5)*

14.6 Internal Controls. The DISTRICT shall establish internal controls that ensure the accuracy of lunch counts prior to the submission of the monthly reimbursement claim. At a minimum, the DISTRICT shall: (a) review worksheets and make comparisons of daily free, reduced-price and paid lunch counts against data which will assist in the identification of lunch counts in excess of the number of free, reduced price and paid lunches served each day to children eligible for such lunches; (b) develop and implement a system follow-up on those lunch counts that suggest the likelihood of

lunch-counting problems; and (c) conduct an on-site review of the counting and claiming system employed by each Facility within the jurisdiction of the DISTRICT.
7CFR 210.8(a)

14.7 Reimbursement Claims. The DISTRICT shall be responsible for signing reimbursement claims. This responsibility cannot be delegated to SodexoMAGIC. *7 CFR 210.16(a)(5)*

14.8 Contractual Responsibility. The DISTRICT shall be responsible for all contractual agreements entered into in connection with the Food Service Program (e.g., vending meals to other school food authorities); *7 CFR 210.19(a)(1)*

14.9 DISTRICT shall be responsible for ensuring resolution of Food Service Program review and audit findings, *7 CFR 210.9(b)(17) and 210.18(k)(1)(2)*

14.10 Parent Letters. The DISTRICT shall develop, distribute and collect the parent letters and applications for free and reduced-price meals and free milk. *7 CFR 245.6*

14.11 Verifying Free and Reduced-price Meal Applications. The DISTRICT shall be responsible for determining and verifying applications for free and reduced-price meals or free milk benefits and the conduct of any hearings related to such determinations. This responsibility shall not be delegated to SodexoMAGIC. *7 CFR 245.6*

14.12 Food Donated by USDA. The DISTRICT shall assure that the maximum amount of government-donated foods are received and utilized by SodexoMAGIC. *7 CFR 210.9(b)(5)*

14.13 Commodity Processing Contracts. The DISTRICT shall establish commodity processing contracts based on the needs of SodexoMAGIC. This responsibility cannot be delegated to SodexoMAGIC. *7CFR 250.12(j)*

14.14 Ala carte Offering. In order to offer ala carte Food Service, the DISTRICT must offer all eligible children reduced-price and full price reimbursable meals. *7CFR 210.16(a)*

14.15 Losses. The DISTRICT shall be responsible for any losses that may arise due to circumstances beyond the control of the DISTRICT or SodexoMAGIC, such as loss of electrical power.

14.16 Inventory. The DISTRICT shall provide a list of supplies and equipment available for use by SodexoMAGIC.

14.17 Equipment Damage. The DISTRICT shall be responsible for loss or damage not caused by SodexoMAGIC to equipment owned by the DISTRICT and located on its Premises.

14.18 Equipment Installation. The DISTRICT shall furnish and install any equipment or make any structural changes needed to comply with federal, state and local laws.

14.19 Fixture Repairs. The DISTRICT shall be financially responsible for repairs to all permanent fixtures such as faucets, lights, sewers, air-conditioning, heating vents, hoods and all electrical work.

14.20 Food Service Areas. The DISTRICT shall make available without cost to SodexoMAGIC, mutually agreed to areas of the Premises which are reasonably necessary for SodexoMAGIC to render its Services.

14.21 Signature Authority. The DISTRICT maintains signature authority on the agreement to participate in the NSLP, the SSP and the SMP, including the SFA's free and reduced-price policy statement and the Claim for Reimbursement.

14.22 Access. The DISTRICT shall have unlimited access to all areas used by SodexoMAGIC for purposes of inspections and audits.

14.23 Trash Removal. The DISTRICT shall have designated areas for the removal of all garbage and trash.

14.24 Painting. The DISTRICT shall be responsible for painting within the dining areas.

Section 15. HEALTH CERTIFICATION

15.1 Health Certification. SodexoMAGIC shall have state or local health certification for any facility outside the DISTRICT in which it proposes to prepare meals and SodexoMAGIC shall maintain this certification for the duration of this Agreement. *7 CFR 210.16c(2)*

15.2 Safety Regulations. SodexoMAGIC shall obtain and post all applicable health permits for the Facilities. SodexoMAGIC shall comply with all health and safety regulations required by federal, state or local law.

Section 16 ENVIRONMENTAL & ENERGY COMPLIANCE

16.1 Environmental. The DISTRICT and SodexoMAGIC shall comply with all applicable standards, orders or requirements issued under 7 CFR Part 3016 as follows: (a) Section 306 of the Clean Air Act; (b) Section 508 of the Clean Water Act; (c) Executive Order 11138; and (d) applicable Environmental Protection Agency regulations. Violations shall be reported to the USDA and to the U.S. Environmental Protection Agency Assistant Administrator for Enforcement as set forth in BN-329.

16.2 Energy. The DISTRICT and SodexoMAGIC shall recognize mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. *7*

CFR Part
3016

Section 17. DEBARMENT/SUSPENSION CERTIFICATION

17.1 Debarment/Suspension Certification. SodexoMAGIC shall sign a debarment/suspension certification. This certification assures the DISTRICT that SodexoMAGIC has not been debarred from entering into contracts with the federal government or any entity receiving federal funds or suspended from entering into contracts during a time when SodexoMAGIC is being investigated for a legal action taken to debar SodexoMAGIC from contracting activities. *7 CFR 3017.510*

17.2 Location of Certificate. The certification is attached to the signed Agreement and kept on file at the DISTRICT. A copy of the certification will be forwarded to the state agency with a copy of the signed Agreement. *7 CFR 3017.510*

Section 18. INDEPENDENT PRICE DETERMINATION

18.1 Independent Price Certification. SodexoMAGIC shall certify that the prices in the offer have been arrived at independently, without consultation, communication or agreement for the purpose of restricting competition. *7 CFR 301*

18.2 Certificate of Independent Price Determination. SodexoMAGIC and the DISTRICT shall sign and submit a Certificate of Independent Price Determination with the agreement. SodexoMAGIC shall attach the certification to the signed Agreement which is kept on file at the DISTRICT. The DISTRICT shall also forward a copy of the certification to the state agency with a copy of the signed Agreement. *7 CFR 3017*

Section 19. LOBBYING ACTIVITIES

19.1 Lobbying Certification. SodexoMAGIC shall sign and submit a certification regarding lobbying which conforms in substance with the language contained in 7 CFR 3018.

19.2 Location of Certification. The certification regarding lobbying shall be attached to the signed Agreement and kept on file at the DISTRICT; A copy of the certification shall also be forwarded to the state agency with the signed Agreement. *7 CFR 3018*

19.3 Disclosure of Lobbying Activities. SodexoMAGIC shall disclose lobbying activities in connection with any school nutrition programs. *7 CFR 5018*

19.4 Location of Disclosure Form. The Lobbying Disclosure Form shall be attached to the signed Agreement and kept on file at the DISTRICT. A copy of the Form shall also be forwarded to the state agency with the signed Agreement. *7 CFR 3018*

Section 20. GENERAL TERMS & CONDITIONS

20.1 Governing Law. This Agreement, its construction, validity, effect, performance and enforcement shall be governed by and construed under the laws of the State of Indiana.

20.2 Entire Agreement. This agreement constitutes the entire agreement between the Parties pertaining to the operation of the Food Service Program and supersedes all prior or contemporaneous negotiations, discussions or understandings. There are no representations, inducements, promises, agreements, arrangements or undertakings, oral or written, between the Parties relating to the matters covered by this Agreement other than those set forth in this Agreement. No variation or modification of this Agreement or attached Exhibits and no waiver of their provisions shall be valid unless in writing and signed by the duly authorized officers of SodexoMAGIC and the DISTRICT.

20.3 Severability. Each article, paragraph, sub-paragraph, term and condition of this Agreement, and any portions thereof, will be considered severable. If for any reason, any portion of this Agreement is determined to be invalid, contrary to or in conflict with any applicable present or future law, rule or regulation in a final ruling issued by any court, agency or tribunal with valid jurisdiction, that ruling will not impair the operation of or have any other effect upon, any other portions of this Agreement; all of which will remain binding on the Parties and continue to be given full force and effect.

20.4 Status Reports. A representative of SodexoMAGIC shall, bi-monthly, give a full update and report of the status of the Food Service Program to the Board of School Trustees. This report shall be given in writing to the District and if requested, SodexoMAGIC shall give a bi-monthly report at a committee meeting to be determined by the Board of School Trustees.

20.5 Assignment. Neither SodexoMAGIC nor the DISTRICT may assign or transfer this Agreement, or any part thereof without the written consent of the other Party except FSMC may, without prior approval and without being released from any of its responsibilities hereunder, assign or subcontract, this Agreement to any affiliate or wholly-owned subsidiary of FSMC

20.6 Captions. All captions in this Agreement are intended solely for the convenience of the Parties and none shall be deemed to affect the meaning or construction of any provision of this Agreement

20.7 Construction and Effect. No failure of either Party to exercise any power reserved to it by this Agreement or to insist upon strict compliance by the other Party with any obligation or condition hereunder and no custom or practice of the Parties at variance with the terms hereof shall constitute a waiver of either Party's right to demand exact compliance with any of the terms of this Agreement. Waiver by either Party of any particular default shall not affect or impair either Party's right to exercise any or all of its rights and powers herein, nor shall that constitute a waiver by that Party of any right hereunder or of its right to upon any subsequent breach or default to terminate this Agreement prior to the expiration of its terms

20.8 Proprietary Materials. DISTRICT acknowledges that the names, logos, service marks, trademarks, trade dress, trade names and patents, whether or not registered, now or hereafter owned by or licensed to SodexoMAGIC or its affiliated and parent companies (collectively "Marks") are proprietary Marks of SodexoMAGIC, and DISTRICT shall not use the Marks for any purpose except as expressly permitted in writing by SodexoMAGIC. Upon termination of this Agreement, DISTRICT shall (a) immediately and permanently discontinue the use and display of any Marks and make or cause to be made such changes to the Facility as SodexoMAGIC shall reasonably direct so as to effectively distinguish the Facility from its former appearance (collectively, "De-image"); and (b) immediately remove and deliver to SodexoMAGIC all goods bearing any Marks. If DISTRICT shall fail to De-image the Facility within thirty (30) days of the termination date, SodexoMAGIC and its agents shall have the right to enter the Facility and De-image the Facility without prejudice to SodexoMAGIC's other rights and remedies.

20.9 Notices. If any notice or other correspondence is required to be delivered under this Agreement, it shall be given in writing and shall be delivered personally, by overnight delivery or by United States mail, postage prepaid, certified mail, return receipt requested, in which event it shall be deemed given upon receipt to the Parties at the following addresses (or to such other address as a Party may designate by notice)

To District:

Gary Community School District
Emergency Manager
900 E. Gerry Street
Gary, Indiana 46406

To SodexoMAGIC:

SodexoMAGIC, LLC
Attention: Selena Cuffe
9801 Washingtonian Blvd.
Gaithersburg, Maryland 20878

and:

SodexoMAGIC, LLC
Attention: Law Department
9801 Washingtonian Blvd.
Gaithersburg, Maryland 20878

20.10 Confidentiality. In the course of providing the Services hereunder, the Parties may be exposed to trade secrets or other confidential or proprietary information and materials of the other Party including, but not limited to, menus, recipes, signage, Food Service surveys studies, management guidelines, procedures, operating manuals and software, all of which shall be identified as confidential ("Confidential Information"). The Parties agree to hold and not to disclose any Confidential Information during the

Term of this Agreement and for two (2) years afterward, except that the Parties make use of disclose Confidential Information: (a) to its employees and affiliates or others to the extent necessary to render any Service hereunder, provided that the other Party is first notified of the information that will be provided to any party outside of this Agreement and provided further that such information is disclosed only after such outside party is required to maintain it in confidence as required hereunder; (b) to the extent expressly authorized by either party; (c) to the extent that at the time of disclosure, such Confidential Information is in the public domain, or after disclosure enters the public domain other than by breach of the terms of this Agreement; (d) that is in the possession of either Party at the time of disclosure and is not acquired directly or indirectly from the other Party; (e) that is subsequently received on a non-confidential basis from a third party having a right to provide such information; or (f) as required by order during the course of a judicial or regulatory proceeding or as required by a government authority. The Parties agree not to photocopy or otherwise duplicate any Confidential Information without the express written consent of the other Party. Each Party's Confidential Information shall remain the exclusive property of the Party and shall be returned to the other Party upon termination or expiration of the Agreement.

20.11 In the event of any breach of this provision, the Parties shall be entitled to equitable relief in addition to all other remedies otherwise available to it at law. This provision shall survive termination or expiration of this Agreement.

20.12. **Technology.** SodexoMAGIC shall utilize technology in the district. Section

21. **Cost Reimbursable Contract Financial Terms and Conditions**

21.1. Allowable costs will be paid from the nonprofit school food service account to SodexoMAGIC net of all discounts, rebates, and other applicable credits accruing to or received by SodexoMAGIC to the extent those credits are allocable to the allowable portion of the costs billed to the District. 7 CFR 210.21(f)(i)(i)

21.2. SodexoMAGIC shall separately identify for each cost, the amount of that cost submitted for payment to the District the amount of that cost that is allowable (can be paid from the nonprofit school service account) and the amount that is unallowable. 7 CFR 210.2(f)(1)(ii)(A)

21.3. This Agreement excludes all unallowable costs from billing documents and certifies that only allowable costs are submitted for payment, and records have been established that maintain the visibility of unallowable costs, including directly associated costs, in a manner suitable for contract cost determination and verification. 7 CFR. 210.21(f)(i)(ii)(b)

21.3.1 SodexoMagic's determination of its allowable costs must be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget cost circulars;

21.3.2 SodexoMagic must identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the SFA for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the State agency, the SFA may permit SodexoMAGIC to report this information on a less frequent basis than monthly, but no less frequently than annually;

21.3.2 SodexoMagic must identify the method by which it will report discounts, rebates and other applicable credits allocable to the Agreement that are not reported prior to conclusion of the contract; and

21.3.3 SodexoMAGIC must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the SFA, the State agency, or the Department.

21.3.4 No expenditure may be made from the nonprofit school food service account for any cost resulting from a cost reimbursable contract that fails to include the requirements of this section, nor may any expenditure be made from the nonprofit school service account that permits or results in SodexoMAGIC receiving payments in excess of SodexoMAGIC's actual, net allowable costs.

21.5 Existing Inventory. On or about August 1, 2020, FSMC and SFA shall jointly inventory all food, commodities and supplies ("Opening Inventory"). Such Opening Inventory value shall be mutually agreed upon in writing by the parties. FSMC shall have the right to use the Opening Inventory in connection for the SFA's food service program. During the term of this contract, title to all equipment, commodities, food and other supplies required under this Agreement and purchased by the FSMC on the SFA's behalf shall remain with the SFA and the FSMC shall maintain the inventory of food, commodities and supplies in reasonable volumes that can be exhausted readily (i.e., in such a manner as to not "stockpile" the food and/or supplies). The charges to replenish such inventories shall be charged as an Operating Expense and shall be reimbursed by the SFA. At the expiration or termination of this contract, the FSMC and SFA shall jointly take a "Closing Inventory" of all such food, commodities and supplies. The value of the inventories shall be determined by invoice prices, less all applicable discounts, rebates and other credits. If the Opening Inventory is greater than the Closing Inventory, the difference shall be credited against amounts due FSMC on FSMC's final billing to SFA"

21.6 Budget Information. SFA and FSMC agree to proposed budget attached as Exhibit A and included in the proposal.

SO AGREED TO this _____ day of _____

GARY COMMUNITY SCHOOL CORPORATION

District Representative

District Representative

SODEXOMAGIC, LLC.

Mia Mendis
Executive Vice President

Brad Lozier
Senior Vice President





EXHIBIT "A" BUDGET

FSMC Projected Expenses

Attachment 5a

FSMC Projected Expenses (to be completed by the FSMC or FSMC can submit the equivalent information in a different format)		
	TOTAL COST	COST/MEAL (Only for Fixed Price)
EXPENSES:		
Food Cost-Including Commodities* Enter the amounts of food and milk purchased and received. Include the Estimated Commodity Value from the SFA Projected Revenue tab (cell D78) along with your projected other food costs. (Do not include rebates, discounts and credits here)	\$ 1,685,272.00	\$ -
Direct Labor and Benefits* Enter the gross amount paid for salaries and fringe benefits to foodservice workers	\$ 1,168,840.00	\$ -
Other Direct Costs* Enter the cost for nonfood items such as paper goods, supplies, equipment repairs	\$ 464,808.00	\$ -
Nonreimbursable Expenses* Enter all expenditures that are not an allowable cost for reimbursement purposes	\$ -	\$ -
Administrative Fee* Enter the fee that will be charged to manage the program	\$ 288,851.00	\$ -
FSMC Management Fee* Enter the fee that will be charged to manage the program	\$ 93,877.00	\$ -
Indirect Costs* Enter the amount of utilities and indirect labor charged to manage the program	\$ -	\$ -
Other: Please List Below (catering, pre-packaged meals sold to outside schools, etc.)	\$ -	\$ -
	\$ -	\$ -
	\$ -	\$ -
	\$ -	\$ -
	\$ -	\$ -
Sub-total Expenses/Total Cost Per Meal	\$ 3,701,648.00	\$ -
Less <u>estimated</u> Rebates, Discounts and Applicable Credits	\$ (281,118.00)	
SUMMARY		
Guarantee to SFA*	\$ 512,250.00	Total Revenue \$ 3,932,780.00
		Total Expenses \$ 3,420,530.00
School Nutrition Program-Profit or (Loss)		\$ 512,250.00

* All items must be itemized in full detail and included in the bid response, either on the FSMC Budget Summary tab or as a separate file.
Administrative Fee, Management Fee, and Guarantee to SFA must include the formula or methodology for calculation.

NSLP Projected Operating Costs

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Updated March 2014

**EXHIBIT "B" COMMON
GOALS SESSION****Definition:**

Common Goals is a meeting that is always held **within** sixty (60) days of the commencement of Services.

Objectives:

1. To assess the program's performance.
2. To seek input and provide better understanding of the contract to a broader representation of key school district personnel.
3. To solidify relationships.
4. To gain consensus of objectives/expectations from the business relationship.

Participants:

District: District liaison(s), and Superintendent, a representative from the School Board, Assistant Superintendent(s), Purchasing Director, a Principal representing Elementary School, Middle School, High School and Special Needs students, Student Representatives and Parent Group Representatives.

SodexoMAGIC: Sales Executive, District Manager responsible for the contract, the General Manager and the Assistant Manager, if applicable. Vice Presidents and other company executives should attend on "as needed basis".

EXHIBIT "C"
ANNUAL EXPECTATIONS MEETING

Definition:

Annual Expectations Meeting is a meeting that is always held during the second half of each school year.

Objectives:

1. To review progress to date on the goals and priorities set in previous meetings.
2. To establish priorities to close the school year and expectations for the upcoming school year.

Participants:

District: District liaison(s), and Superintendent. We suggest that at least one of the following participate: Board President, Assistant Superintendent(s), or Purchasing Director. odexoMAGIC: District Manager responsible for the contract, the General Manager and the Assistant Manager, if applicable. Vice Presidents and other company executives should attend on "as needed basis".